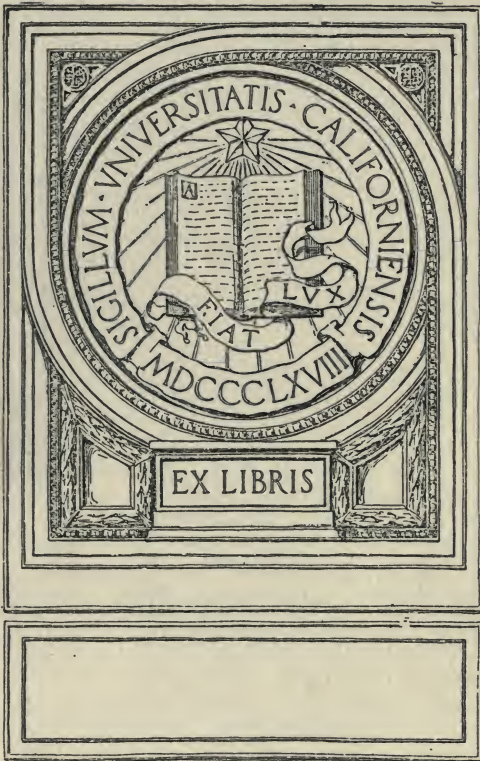


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INTERNATIONAL RELATIONS OF LABOR

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INTERNATIONAL RELATIONS OF LABOR

*Lectures delivered before the Summer School
of Theology of Harvard University, June, 1920*

by

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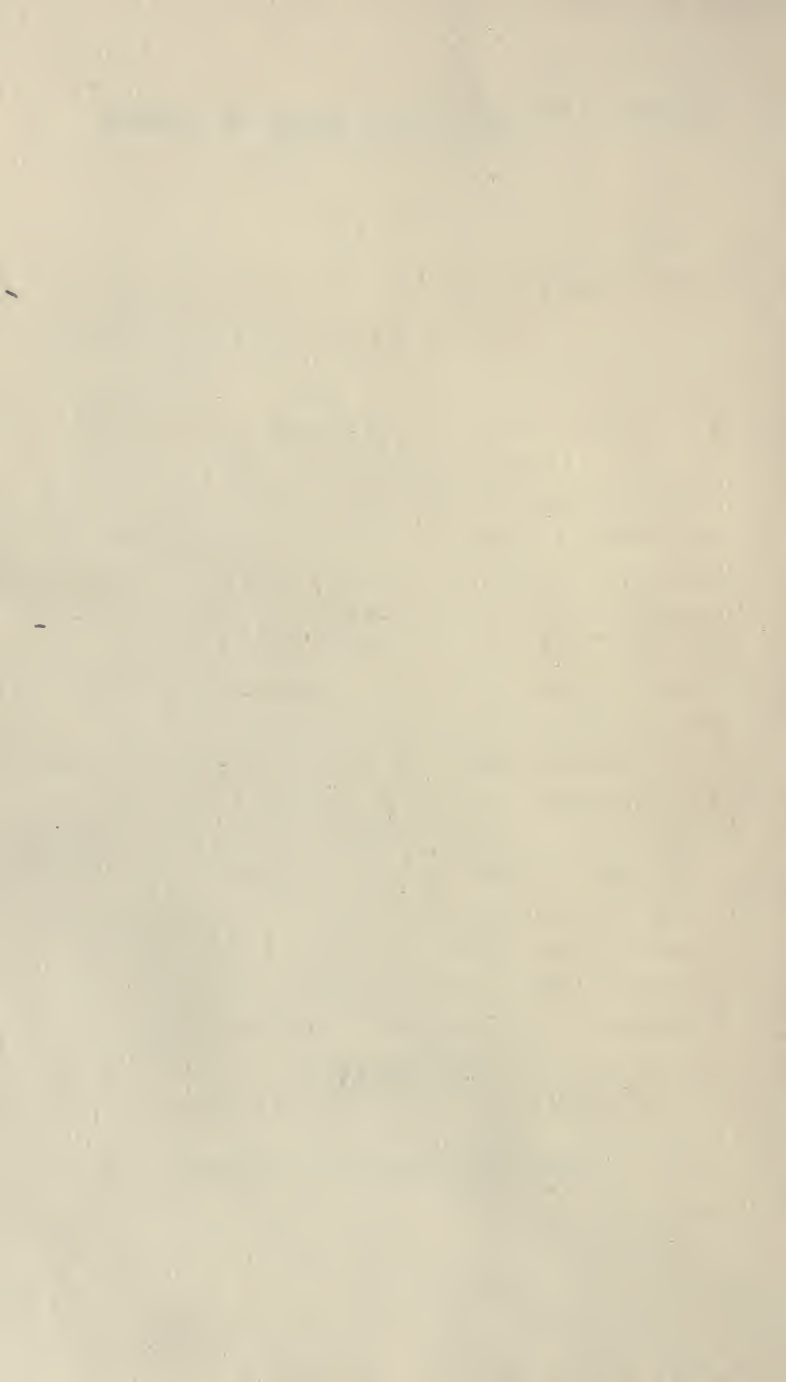


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INTERNATIONAL RELATIONS OF LABOR

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INTERNATIONAL RELATIONS OF LABOR

IN speaking of the International Relations of Labor, I suppose that we should consider as of primary interest and importance the relations of the present; but even if it were ever possible to arrive at a true view of the present without some thought of the past, it could not be expected that one of my profession would be content to omit precedent and history from his presentation of any subject.

The labor question is a very old one. In one of the most ancient codes of laws which have been brought to my attention, it is written, "In the sweat of thy face shalt thou eat bread" (Genesis, 3: 19). But the precedents, the history of International Labor Relations, do not go very far back. If we were to outline all that took place more than a generation ago in that regard, we should have a very short story to tell. Our real starting point, in so far as any existing situation may be said to

have a defined starting point, is the Labor Conference of 1890 held at Berlin. But the preceding discussions and proposals should be briefly noticed.

Doubtless the very earliest of these was the memorial of the Scotch philanthropist Robert Owen, relating to the conditions of labor and addressed to the Congress of the Powers assembled at Aix-la-Chapelle in 1818.¹

Some twenty years later, a French economist, Blanqui, suggested that conditions of competition might be regulated by international agreement,² and during the next two decades, when laws regarding factories were being proposed and passed in France, in England, and in Germany, a French manufacturer, Legrand, addressed memorials to various governments of Europe, advocating international regulation of hours of labor, limitation of child labor, the abolition of night work for women, and provisions regarding unhealthful occupations.³ And while any idea of international reg-

¹ Memorial of Robert Owen, of New Lanark in Scotland, to the Allied Powers assembled in Congress at Aix-la-Chapelle, in his *Two Memorials*, Lanark, 1818.

² Ernest Mahaim, "Le droit international ouvrier," Paris, 1913, pp. 188-189.

³ "Archives diplomatiques," 1890 (2 Série), t. XXXVI, pp. 36-40.

ulation was far too novel for acceptance or even for diplomatic discussion, still, toward the end of this period the ideas of Legrand were being advocated to some extent in Switzerland, in Belgium and in Germany.

The First Congress of the International Workingmen's Association, known as the "International," met in Geneva in 1866 and approved of:

"International combination of efforts by the Agency of the Association, in the struggle between Labor and Capital."

But the resolutions passed at this congress, radical as it and its successors were thought at the time, seemed to look forward to the collection and interchange of statistics as a practical means of counteracting what was called "the misuse of the workman of one country as a tool against the workman of another." And while this congress proposed the 8-hour day and the abolition of night work for women, it considered that children, even from the age of 9 years, ought to be productive laborers, although those from 9 to 12 years old should work only two hours a day and those from 13 to 15 only four hours. Subsequent congresses of the International, particularly the fourth, held

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at Basle in 1869, attracted more attention, as the opposition of various governments and the numerous labor difficulties of the period made the meetings of some political consequence in Europe.

In 1871, Bismarck proposed an arrangement between Germany and Austria regarding certain standards of labor legislation, but the negotiations did not succeed.⁴

In 1876, the President of the Swiss Confederation suggested to the Swiss National Council "the conclusion of international treaties tending to regulate labor questions in a uniform manner in all the industrial states."⁵ While nothing resulted at the time from this suggestion, it was a sign of the slowly growing public sentiment of Europe in favor of international labor legislation, other evidences of which are to be found in the writings of certain publicists, in the declarations of various congresses of the socialists, and even of manufacturers.

In 1881, the first serious official attempt to make the subject one of discussion among governments was made by Switzerland. Upon the invitation of the National Council, the Swiss Federal Council ad-

⁴ "Bulletin des Internationalen Arbeitsamtes," Jena, 1904, Bd. III, S. IX.

⁵ "Archives diplomatiques," 1890, (2 Série) t. 36, p. 41.

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dressed a note to its representatives at the capitals of Great Britain, France, Germany, Austria, Italy and Belgium, asking them to obtain information as to what States might be willing to join in the international regulations of labor in factories.

All of the governments addressed replied except Belgium, and all of the replies were hostile to the idea.⁶ But while the attempt failed, it is very justly observed by Mr. Lowe, in his work on this subject:⁷

“that to Switzerland more than to any other State belongs the credit and honor of being the pioneer in blazing a trail for the international regulation and protection of labor.”

And it is worthy of some emphasis in our discussion, that the movement was initiated by the most democratic and non-militaristic country in Europe and was opposed by the Great Powers, for those of our people who doubt the advisability of international coöperation in such matters should know that the development of such coöperation is shown by its history to be simply one phase of the inevitable development of democracy and of human

⁶ “Archives diplomatiques,” 1890, (2 Série) t. 36, pp. 41-46.

⁷ Boutelle Ellsworth Lowe, “International Aspects of the Labor Problem,” New York, 1918, p. 15.

progress, the march of which is not to be hindered by those who put the label of socialism on every proposal of justice.

During the next decade discussion of the international protection of labor became general. Various labor congresses made recommendations on the subject.⁸ It was debated in the Municipal Council of Paris and in the French Parliament and became a live issue in Germany because of Bismarck's declaration in 1885 that international protection of workmen was impossible and impracticable.⁹

The time was ripe for further official action and again the Swiss Government was the moving party. In 1889, Switzerland addressed a circular note¹⁰ to the Powers suggesting an international conference to pass upon proposals which might take the form of international conventions, and outlining a program for discussion. This program included the prohibition of Sunday labor and of the employment of women and young persons in unhealthy occupations, the restriction of night work for women and young persons, and the establishment

⁸ "Revue politique et parlementaire," 1914, t. 79, p. 231.

⁹ Mahaim, *op. cit.* pp. 200-203.

¹⁰ "Archives diplomatiques," 1890, (2 Série) t. 36, pp. 372-373.

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of a maximum day and a minimum age in regard to work by children in factories.¹¹ Various governments which had been hostile in 1881, now sent favorable replies and a subsequent Swiss note fixed the time and place of the Conference for May 5, 1890, at Berne. But the invitations were withdrawn, and the conference was not held, because of the action of the German Emperor who addressed a rescript to the same Chancellor who had in 1885 declared the idea impracticable, asking him to invite all the governments interested in the labor problem to take part in a conference to deliberate upon the questions raised, and saying:¹²

“The difficulties which oppose themselves to the betterment of the condition of our workers and which result from international competition can be, if not surmounted, at least diminished, in no other way than by the international agreement of the countries which dominate the labor market.”

The idea had triumphed and had been adopted by one of the most autocratic governments of Europe, with results most important in the history of the labor movement, past and future.

Now that is all, or substantially all, that had

¹¹ *Ibid*, pp. 46-53.

¹² *Ibid*, p. 325.

happened up to 1890. We may be surprised that it is so little. For the economic effects of labor conditions in different countries were well known in Europe, the development of industry since the discovery of the steam engine had been enormous for the period; tariff systems, more or less protective, were in common use for the development of national industry; and the economic dependence and interchange among the various European states were very close. Nothing could be more natural than that both employers and employed should think that uniformity of conditions would result in fairer and more profitable competition and it is only a short step from this thought to the idea that such conditions of equality might be brought about by governmental agreements. But that step was, as has been seen, a very difficult one to take. It was necessary to face that inertia of diplomacy which can see a possibility of harm in doing anything, or at least in doing anything that has not often been done before, and also the feeling of employers, which is the feeling of a vested interest in all cases, that any change may make for higher costs, that capital never gets better off but always worse off as the result of discussion and that a vested interest is one which is in a very comfortable

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position and which need only look out that it be not either wholly or in part divested. How and why were these obstacles overcome? Simply, I think, by the gradual progress of popular government. It is significant, as has been pointed out, that the initiative was taken by Switzerland, the most democratic government in Europe, in 1876. Democracy was slowly spreading in Europe, a new voting law was enacted in Italy in 1882, reforms had been passed in Great Britain in 1884 and 1885, the Constitution of Holland was revised in 1887, progress was being agitated in Belgium and the popular party was making its influence felt in Germany.¹³ Indeed, in January, 1890, the very month before the German rescript which I have mentioned, the Reichstag had rejected an anti-socialist bill.

But the step was taken and the Berlin Labor Conference of 1890 was held. All of the important countries of Europe, except Russia, were represented. The actual results of the Conference must have seemed, at the time, disappointing, and in a technical sense, this was true, for no international agreements were drawn up and the work of

¹³ Seymour and Frary, "How the World Votes," Springfield, Mass., 1918.

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the Conference is represented by certain expressed "vœux" as the French call them, a word which has been translated as meaning something between a wish and a hope. But the effect and importance of the Berlin Labor Conference are not to be measured by its actual results. It was in reality the beginning of a new era, a period of official international discussion of the labor problem in all its phases, an era never to end, and the importance of which was not perhaps fully realized until the Great War had been half fought.

While I cannot review in great detail the recommendations of the Berlin Conference of 1890, they covered somewhat generally a wide field—labor in mines, child labor, unhealthful occupations, work of women and girls, work after child birth, were all in some of their phases made the subject of suggestion.¹⁴ And though years were to pass before any of these suggestions were to be embodied in definitive conventions, they had become subjects of diplomatic discussion and were to remain so.¹⁵

But to show how little this was appreciated at

¹⁴ "British and Foreign State Papers," 1890, Vol. 41, Commercial, 8, 16.

"Archives diplomatiques," 1890, (2 Série) t. 35, pp. 175-178.

¹⁵ "Archives diplomatiques," 1890, (2 Série) t. 36, p. 78.

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the time, I may quote from Anatole Leroy-Beaulieu, who wrote in 1892:¹⁶

“Can we imagine General Caprivi or the Marquis of Rudini addressing diplomatic notes to the Quai d’Orsay on the carrying out of international arrangements concerning the length of the working day? Let us not harbor ideas which are illusions or at least premature; such agreements would be more difficult to formulate and scarcely less dangerous in their application than a general disarmament treaty signed in Paris or Berlin. But in order to climb the long steep path of social progress, is it really necessary that the different States be bound by treaties? Thank God, it is not. It is sufficient if they are moved by the same spirit and feel a common inspiration.”

It is interesting to note that even in our own day some so-called statesmen have like fears as to labor legislation, disarmament and peace, although they would not, perhaps, so willingly admit the influence of the one upon the other.

Starting then, with 1890, we may first review the happenings in our field of discussion up to the outbreak of the Great War, and it will be more convenient to proceed generally in a chronological

¹⁶ Anatole Leroy-Beaulieu, “La Papaute, le socialisme et la démocratie,” Paris, 1892, pp. 175–176.

“United States Bureau of Labor Statistics,” Bulletin No. 254, 1919, p. 8.

order, as the development of events was not by any means restricted to the diplomatic channel.

Switzerland continued her original interest in the subject. In 1892, she proposed to Germany and Austria-Hungary an international agreement regulating the industry of mechanical embroidery, but neither of these two powers was favorably disposed to the proposal.¹⁷

Again, in 1896, she approached the Powers with regard to the establishment of an international bureau of information as to labor laws, statistics, etc., a proposal which seems about as harmless as could be imagined; but the Powers were hostile to the idea which, as we have seen, is at least as old as 1866.¹⁸ Indeed, the general official attitude at this time was one of doubt and suspicion, the same attitude that is seen today in the United States in the bureaucrat or politician who has reached a certain age of mind. But it was not long before this matter of a labor office for the acquisition and distribution of information was to be settled along lines of efficient action not requiring any official sanction.

¹⁷ L. Chatelain, "La protection internationale ouvrière," Paris, 1908, pp. 77-78.

¹⁸ *Ibid*, pp. 78-79.

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In 1897 were held Labor Congresses at Zurich and at Brussels (the latter of which may be called semi-official, as some governmental delegates attended), and while little resulted directly from these meetings they had an important influence on the sentiment of the time. Indeed, one Great Power was now ready to enter into treaties embodying labor legislation, for in 1900 France made proposals to Belgium which were rejected.¹⁹

In 1900, the Labor Congress of Paris, held at the time of the Paris Exposition, brought about the formation of the "International Association for the Legal Protection of Labor," usually called the "International Association for Labor Legislation."²⁰ It is really an Association composed of entirely independent National Associations in various countries, including the United States. It maintains a permanent labor office in Basle and issues a periodic bulletin in English, French and German which contains information as to labor laws in every country. While the Association is unofficial in the sense of non-governmental, the meetings of delegates, of which seven were held before 1914, have usually,

¹⁹ "Bulletin of the International Labor Office," London, 1906, Vol. I, App. p. 150.

²⁰ Mahaim, *op. cit.* pp. 210-218.

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if not always, been attended by representatives of various governments, it has exercised a great influence in international labor matters and its work is very closely related to that of the existing International Labor Bureau of the League of Nations.²¹

Indeed, this Association was in large part responsible for all the forward steps taken between 1900 and 1914. M. Millerand called it "the laboratory in which international treaties are prepared," and while the two conventions of Berne of 1906, which I am soon to mention, were the work of various governments, it was the Association which furnished the material for them.

We now enter the period of direct international labor legislation, for in 1904 France and Italy signed a treaty²² making certain provisions for the reciprocal protection of the workmen of one country in the territory of the other and containing clauses which would have a tendency to make more similar the labor legislation of the two countries by

²¹ "Procès-Verbal de l'Assemblée Constitutive de l'Association Internationale pour la Protection légale des Travailleurs, tenu à Bâle les 27/28 Septembre, 1901," pp. 127-129, in "Schriften der Internationalen Vereinigung, für gesetzlichen Arbeiterschutz," Jena, 1901, No. I.

²² Treaty of April 15, 1904. "Bulletin de l'Office du Travail," Paris, June, 1904, pp. 518-521.

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raising the standards in Italy, which were lower than those in France.²³ The logical result of diplomatic discussions dating back to 1890 had for the first time been reached in formal diplomatic agreement between two of the important industrial nations of Europe. No one in Europe, at least, could now say that such questions were wholly outside the realm of treaties. To what extent such treaties should go, what points they should cover, what limitations they should set, were now merely matters of policy to be debated on their merits, and to be decided along the lines of supposed national self-interest and public opinion.

And in connection with this first treaty of 1904 between France and Italy it should be said that a principle was in fact, though not in terms, laid down by it, a principle to which every labor treaty of any kind since drawn has conformed—and that principle is this—any labor standards imposed by the treaty may be improved standards as to any given country in comparison with those of an earlier period, but they may not be lower standards.

To put the matter concretely, if the treaty relates to hours of labor, and the hours prescribed by law in one country are 12 and in the other 10, the pre-

²³ Albert Metin, "*Les Traités Ouvriers*," Paris, 1908.

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scribed hours in the first country or even in both may be shortened, 12 may be reduced to 11, or 12 and 10 may both be reduced to 9, but 10 cannot be raised to 11—this is an unchanging principle which we find embodied in express terms in Article 405 of the Treaty of Versailles:

“In no case shall any Member be asked or required, as a result of the adoption of any recommendation or draft convention by the Conference, to lessen the protection afforded by its existing legislation to the workers concerned.”

Thus while there are certain difficulties in the way of participation by the United States in international labor legislation, difficulties to which I shall allude, those difficulties do not include any danger that any of our labor standards might be lowered by such legislation. When I speak of our labor standards, I mean those that exist in fact, our economic standards. Generally considered, these are relatively high standards, but from a legislative or legalistic point of view, American standards, that is to say, those required by law, are inferior to those of more countries than is generally supposed.

Following the Franco-Italian treaty of 1904, we

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find the two general conventions²⁴ which resulted from the Conferences at Berne in 1905 and 1906, which were called by Switzerland at the suggestion of a commission appointed by the second meeting of the Delegates of the International Association for Labor Legislation in 1902.

One of these conventions relates to night work for women, the other to the use of white, or as it is sometimes called, yellow phosphorus, in the manufacture of matches. Both conventions are of very great importance, for they are of that class of general or multilateral treaties which are assented to by numerous states and which tend to become in effect world legislation.

The convention regarding the prohibition of night work for women was put into force by twelve European countries and by various colonies, the convention regarding white phosphorus by ten European countries and by various dominions, etc. In passing, I may say that while the United States is not a party to either convention, it has a very drastic and effective statute on the subject of the use of white phosphorus.²⁵

I shall not attempt to enumerate the other treaties

²⁴ The texts of these conventions are in Metin, *op. cit.* pp. 185, 200.

²⁵ Act of April 9, 1912, 37 "Statutes-at-Large," p. 81.

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regarding labor that were put into force after 1903 and before the European war. More than twenty of them are to be counted, most of which related to workmen's or accident insurance.²⁶

Steps also were taken in 1913 to prepare general conventions relating to the prohibition of night work by young persons and to the limitation of hours of labor for persons under sixteen and women; these proposed conventions were to have been considered by an official conference called by the Swiss Government for September, 1914, which, of course, was not held.²⁷

We may now, however, survey the situation as to International Labor Relations as it existed at the beginning of the Great War. After determined opposition, the principle that labor legislation was a proper subject of international agreement had become firmly established in Europe. Such agreements had been entered into to some extent, but while their scope was gradually becoming extended, progress was slow and action deliberate. In general, participation in such agreements was confined to European States and their dependencies, although the United States had made a

²⁶ For lists of these treaties see Lowe, *op. cit.*, pp. 93-128.

²⁷ "Revue politique et parlementaire," 1914, t. 79, 239.

treaty with Italy in 1913 ²⁸ assuring to Italian subjects the protection of both State and National laws regarding injuries or death from negligence. The influence of the International Association for Labor Legislation was very important, and was exerted in favor of general treaties regarding labor, but the tendency of the official representatives of the European countries was toward a decidedly less progressive treatment of labor problems than that recommended by the Association.

In speaking of the effects of the war and of the peace upon the International Relations of Labor, it is impossible to leave wholly out of view labor questions considered nationally and in particular countries, although I shall endeavor to allude to these questions only in so far as they touch the subject under discussion. One of the first effects of the war in Europe was to relax, and even in some cases to obliterate, those regulations regarding the hours and conditions of labor which public sentiment as a result of the agitation and discussions during the previous three generations or more had come to regard as wise, humanitarian and economically sound. The prevailing national sentiment in most countries, and in some of them rightly so,

²⁸ Treaty of July 3, 1913, 38 "Statutes-at-Large," p. 1669.

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was that the struggle was one for national existence and that every consideration must yield to the common necessity, and from this sentiment the erroneous conclusion was at first drawn that more efficiency, greater production and increased national benefit would result from work carried on under continuous and exhausting pressure. Not only was this conclusion found to be fallacious, but the sentiment of labor and of labor leaders had to be taken into consideration. There are two factors in war: force and morale, and the actual fighting was necessarily done in large part by men who worked with their hands. Even in the most autocratic countries the cry was insistent that not only international, but domestic affairs should be better regulated after the war than before, and not unnaturally the working man as well as the farmer, insisted that since he had been called upon to save his country at the risk of his life, his conditions were to be taken into account in the framing of every regulation, of every practice permitted during the war, and that the result should be an improvement in his status after the peace.

So well had this become appreciated in 1917, that when the United States entered the war and when the whole industries of the country were

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mobilized behind the lines, the most careful and elaborate provisions regarding wages, hours and conditions of labor were made and kept in force with the coöperation and support of the leaders of labor in this country.²⁹

But labor, particularly in Europe, demanded more than this. It demanded a direct share in the making of the peace and it demanded that in the treaty of peace should be inserted provisions safeguarding labor for the future. Nowhere was this demand more insistent than in Great Britain, where the political power of the labor party had greatly increased. Indeed, it is possible that the Labor Party might have come into office in the British elections in December, 1918, had it not been for the fact that many of the leaders of that party had adopted a mistaken attitude regarding the war and had failed to realize the necessity of crushing an autocracy which sought to dominate the world and to end human progress, before the orderly march of human development and of civilization could be resumed. While a similar mistaken idea prevailed

²⁹ See Samuel Gompers, "American Labor and the War," New York, 1919.

As to Great Britain, see Kellogg and Gleason, "British Labor and the War," New York, 1919; and Arthur Gleason, "What the Workers Want. A Study of British Labor," New York, 1920.

to some extent in other countries, nowhere, except in Russia, was it carried to its fatal conclusion; there, the leaders of the workmen were stricken with the insanity of ignorance and finding faults—grievous faults—in their social structure, tore it down while their own people remained within its walls.

As early as 1915, the American Federation of Labor had proposed that a World Labor Congress be held at the same time and place as the Peace Conference at the end of the war.³⁰ This proposal, however, was not accepted in Europe, chiefly for the reason that it was felt essential that the demands of labor should be formulated before and not at the time of the Peace Conference if those demands were to have any influence whatever upon the diplomats framing the treaty.

The ideas of labor in Europe outside of Russia found expression chiefly at two notable conferences held at Leeds in July, 1916, and at Berne in October, 1917,³¹ and it is necessary to examine the con-

³⁰ "Monthly Review of U. S. Bureau of Labor Statistics," February, 1917, pp. 204-205.

³¹ The Programs of Leeds and Berne are in "Bulletin of U. S. Bureau of Labor Statistics," No. 254, pp. 12-13, 123-129.

"Monthly Review of U. S. Bureau of Labor Statistics," February, 1917, pp. 203-205, 912-915.

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clusions of these conferences in some detail as they had a distinct effect upon public sentiment and were not without influence upon those who framed the Treaty of Versailles.

The Conference at Leeds was attended by delegates from England, France, Italy and Belgium only. It approved a program which had been drawn up in Paris of minimum standards of labor protection, which were set out in considerable detail and the general nature of which appears from the preamble of the resolutions adopted, which reads as follows:

“The conference declares that the peace treaty which will terminate the present war and will give to the nations political and economic independence should also insure to the working class of all countries a minimum of guaranties of a moral as well as of a material kind concerning the right of coalition, emigration, social insurance, hours of labor, hygiene, and protection of labor, in order to secure them against the attack of international capitalistic competitions.”

The Conference at Berne of the International Federation of Trades Unions was attended by Delegates of nine or ten countries, none of which were among the Allied and Associated Powers. Only the then enemy states and various neutrals were

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represented. The peace program which this Conference adopted was long and detailed and in many respects similar to that of Leeds. It included the general right of free emigration and immigration, the prohibition of contract labor from abroad, the interchange of statistics, the right of organization, social insurance, the 8-hour day, Sunday rest, provisions as to unhealthful occupations, restriction of home work, the protection of female and child labor, the enforcement of labor legislation and the recognition of the International Association for Labor Legislation.

In November, 1917, the American Federation of Labor adopted an international labor program consisting of only four items, the first being the prohibition of the shipment in international commerce of any commodity produced by children under the age of 16; second, the 8-hour work day; third, no involuntary servitude except as a punishment for crime; and, fourth, the establishment of trial by jury.³²

Now, let me read in comparison with these programs the declaration of labor principles contained in the Treaty of Versailles as a sort of international labor Magna Charta, principles which may be said

³² Gompers, *op. cit.*, p. 337.

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to have their basis in Article 23 of the Covenant of the League of Nations.

Article 427:

"The High Contracting Parties, recognizing that the well-being, physical, moral and intellectual, of industrial wage-earners is of supreme international importance, have framed, in order to further this great end, the permanent machinery provided for in Section I and associated with that of the League of Nations.

"They recognize that differences of climate, habits and customs, of economic opportunity and industrial tradition, make strict uniformity in the conditions of labour difficult of immediate attainment. But, holding as they do, that labour should not be regarded merely as an article of commerce, they think that there are methods and principles for regulating labour conditions which all industrial communities should endeavour to apply, so far as their special circumstances will permit.

"Among these methods and principles, the following seem to the High Contracting Parties to be of special and urgent importance:

"*First*.—The guiding principle above enunciated that labour should not be regarded merely as a commodity or article of commerce."

I may remark that this first principle is almost a repetition of the language of the Clayton Act,³³

³³ Act of Oct. 15, 1914, 38 "Statutes-at-Large," p. 730.

passed by Congress in 1914, which says that "the labor of a human being is not a commodity or article of commerce."

"*Second.*—The right of association for all lawful purposes by the employed as well as by the employers.

"*Third.*—The payment to the employed of a wage adequate to maintain a reasonable standard of life as this is understood in their time and country.

"*Fourth.*—The adoption of an eight hours day or a forty-eight hours week as the standard to be aimed at where it has not already been attained.

"*Fifth.*—The adoption of a weekly rest of at least twenty-four hours, which should include Sunday wherever practicable.

"*Sixth.*—The abolition of child labour and the imposition of such limitations on the labour of young persons as shall permit the continuation of their education and assure their proper physical development.

"*Seventh.*—The principle that men and women should receive equal remuneration for work of equal value.

"*Eighth.*—The standard set by law in each country with respect to the conditions of labour should have due regard to the equitable economic treatment of all workers lawfully resident therein.

"*Ninth.*—Each State should make provision for a system of inspection in which women should take part, in order to ensure the enforcement of the laws and regulations for the protection of the employed.

"Without claiming that these methods and principles

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are either complete or final, the High Contracting Parties are of opinion that they are well fitted to guide the policy of the League of Nations; and that, if adopted by the industrial communities who are members of the League, and safeguarded in practice by an adequate system of such inspection, they will confer lasting benefits upon the wage-earners of the world."

Now, there is nothing in these principles that is very startling or very shocking to American ideas.³⁴ The thing that is surprising is that they are embodied in a treaty, in a peace treaty attempting to set up a new order of things in the world, an attempt which is, indeed, in actual operation.

But the inclusion of such principles in the Treaty, indeed, the inclusion of the Labor Clauses as a whole, was due to the public sentiment of Europe—the demands of the labor parties and groups of the Allied Countries were too insistent to be ignored.³⁵ But the statement of labor principles

³⁴ See generally Commons and Andrews, "Principles of Labor Legislation," New York, 1916.

³⁵ The German delegation at Versailles, by note of May 10, 1919, transmitted a draft of an "International Agreement on Labor Laws" and criticized the Labor Clauses of the Treaty because "demand for social justice . . . are only partly realized in principle" therein.

The two points were made that "all states should join the agreement, even though not belonging to the League of Nations"

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which the Treaty contains bears the mark of American influence on its face, and because of that influence it goes even farther than was thought wise at Paris by the representatives of Great Britain; on the other hand, the British Delegates would have given more definite international legislative powers to the Labor Conferences of the future whose functions I am to discuss later, than our own Delegates deemed feasible.

We may indeed sum up the results of the events during and since the period of the war by saying that the International Relations of Labor at the

and that a separate Labor Conference should be convened at Versailles, whose proceedings should be based on the resolutions of the International Trade Unions Conference held in Berne in February, 1919.

The reply to this note, dated May 14, 1919, stated that a Labor Conference at Versailles was unnecessary in view of the Conference to be held in Washington in October, 1919, did not admit Germany's right to immediate membership in the Labor Organization and criticized the proposals of the German draft.

These notes were followed by the German note of May 22nd and the Allied reply thereto of May, 28th, notes which contained detailed discussions of the German plan and of the Treaty clauses. The Allied note of May 28th contained the important concession of "early admission of German representatives . . . to full membership and rights in respect to the International Labor Organization and the Governing Body attached thereto." But the German proposal did not result in any modification of the Labor clauses of the Treaty as drafted. World Peace Foundation, League of Nations, October, 1919, pp. 324-337.

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present time are almost wholly dependent upon and bound up with the provisions of the Treaty of Versailles, and that it is impossible to have a proper appreciation of those relations without a general comprehension of the scheme of that Treaty.

The foundation of that Treaty is the Covenant of the League of Nations.³⁶ There is hardly any part of the Treaty which does not depend upon the Covenant either for its interpretation or for its fulfillment or both. While at this time it is perhaps difficult to speak critically of the matter without being accused of partisanship, the problem which was presented at Paris was this: A great part of the civilized world had been engaged in the war, but there was another great part of the civilized world which had remained neutral and which as a direct result of the war had increased both relatively and actually in prestige, in importance and in wealth. To end for the time being the Great War by taking into account nothing but the wishes of the victors, was quite possible, but to create a scheme of future peace which left out Spain, and Holland, and Switzerland, and the

³⁶ See S. P. Duggan, "The League of Nations," particularly the chapter by Andrews on "Labor in the Peace Treaty," Boston, 1919.

Scandinavian countries, as well as some of the most important of those in South America, was to confess failure in advance. Whatever might be thought of the advantages or advisability of the system of the balance of power, that system had disappeared in November, 1918. To have a balance of power there must be power on two sides and there was power on only one. That a new balance of power might be created in the future was possible, but to create it at the time of the Armistice would have required a division of the Allies into two groups. On the other hand, for the allied countries to remain allied after the war was almost a contradiction in terms. It was impossible. It was undesirable. It would have amounted to a continuance of the war in fact, but not in name. Leaving out any question of personalities, these were the considerations—more compelling than any personality—which made the League of Nations the necessity of the Treaty.

It is outside my province at this time to make any analysis of the Covenant further than to say that while it recognizes the principle of the equality of states, it also recognizes that in the practical operations of that principle certain concessions to extrinsic realities are essential. The two import-

ant facts which must be considered in their relation to our subject are, first, that the League of Nations is an existing entity, and, second, that the United States and Russia are not members of the League. I do not mention Germany and Austria as non-members for the reason that they may be said to be quasi-members of the League; their connection with the workings of the League is already very intimate, and their technical admission in the near future is a political certainty.

I have said that in relation to our subject of discussion the League of Nations must be considered as the all-important factor. There is in my judgment no doubt whatever of the correctness of this statement and it is only necessary to make an outline comparison between the point reached in international labor relations at the outbreak of the war in 1914 and the point now reached and the circumstances surrounding the present situation in order to see the conservatism of the statement first made.

The processes of International Labor Legislation before the Great War were very slow processes. Discussion of any particular subject could take place only when all, or substantially all, of those governments interested were ready to conduct

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such discussion. Any one of numerous domestic or international matters might prevent, or at least delay, the holding of any conference on labor questions. The presumptions were all against such conferences being held and the history of the subject had shown that they would meet only at long intervals and only when the proposals to be discussed were those in respect of which action was concededly necessary; in short, under the system before the war, any international action must inevitably take place long *after* international sentiment had admitted its advisability.

We are apt to forget in this country that the Treaty of Versailles has been put in force by substantially all the signatories to it and that it is a tremendously real and important fact in international relations.³⁷ Not only have the signatories of the Treaty in general put it in force, but all of the thirteen states invited to join the League of Nations have adhered to the Covenant so that the League not only exists, but includes in its *membership* nearly all the Powers of the world. It will be said to me, perhaps, that the League cannot in real-

³⁷ See World Peace Foundation, "Three Months of the League of Nations," in "League of Nations," February-April, 1920.

ity exist without the United States, and that at the present time its existence is a mere paper existence. Well, as to the first point, it may be very flattering to our national pride to feel that the League cannot get along without us, but I think we are forgetting that our influence in world relations was at its height in the Spring of 1919, and that our relative political, commercial and financial importance have very greatly diminished since that time. And as to the second point I am rather inclined to agree with Mr. Balfour in the idea that it is not to be supposed that the League is not doing a great deal just because it is not doing everything at once. But however this may be and whatever may be the influence of the League of Nations in political or in international affairs generally, it cannot be questioned that the present status of international labor relations is bound up with the Labor Clauses of the Treaty of Versailles. For not only have these Labor Clauses gone into effect and become operative in a technical sense, but they have become operative in a very real sense, for the first annual Labor Conference under these clauses was held at Washington in the Fall of 1919. And at that Conference important new conventions were drafted and the international labor relations

of the world were placed upon a different footing from any which had ever before been seen.

The scheme of the Labor Clauses of the Treaty of Versailles sets up a two-fold organization; there is first provided an international conference made up of delegates from those countries which are members of the League of Nations and which is to meet at least once a year. In other words, there is established a continuous international parliament on labor questions, a parliament which, as will be seen, does not have final legislative powers, but which does have complete powers of discussion, whose position is such that free discussion is inevitable and unrestricted, except by the provision that its agenda must be prepared in advance—a provision which can postpone discussion of any subject which is really alive for only one year.

This provision for an annual international conference goes beyond any of the demands of the Labor Conferences of Leeds or of Berne or of the American Federation of Labor. It is a very natural corollary of the requirement that the Assembly of the League of Nations shall meet at least once a year.

In the organization of this Conference, the scheme of representation adopted is novel. Each

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State represented is to have equal representation, limited to four delegates, of whom two directly represent the Government, but the remaining two, who are delegates, respectively, of the employers and of the employed, are to be chosen in agreement with the industrial organizations most representative of each group. These provisions are of the utmost importance, for the delegates do not vote by national unit, but individually. This change in the method of voting, even more striking than the change in representation, is one which gives to the Labor Conference some of the real features of a parliament where different interests are represented rather than of a conference where different States only are represented as such, regardless of the number of delegates.

In the final vote by the Conference on any proposal, a two-thirds majority is required for the adoption either of a draft convention or of a recommendation; either of these when adopted must be brought before the competent authority of each State within a year after the close of the meeting of the Conference for ratification in the case of a convention or, where a recommendation is made, for such legislative or other action as may be appropriate. If this is done and the proper author-

ity of the State refuses to ratify or to legislate or to take other action, as the case may be, that State is free of any further duty in the matter.

These provisions have been criticized in the United States as going too far and elsewhere as not going far enough. They permit formal proposals to be made to Governments in a novel way, so those who see danger in any novelty are fearful that somehow dangerous proposals will be made and accepted; but on the other hand as these provisions do not impair the sovereignty of the various Powers, and do not permit the delegates to pass binding legislation, they are and in Paris were criticized as not going far enough. These were inevitable criticisms; their type is very familiar; they have always been made in the past and I suppose always will be made in the future. They are only to be answered in the same old fashion—the world must make progress, but it makes progress step by step; those who look back are always wrong and those who look too far forward do not see the truth of the present.

From a survey of the language of these clauses regarding the Labor Conferences, we might well suppose that while the Conferences are not given any power of international government or any

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power of national government, still their powers of recommendation would permit the focusing of international and national public opinion in ways entirely different from those of the past. But we may look at the matter concretely and not merely from an examination of the clauses. At the International Labor Conference held under these clauses in 1919, we find that on one roll call the delegates of no less than fifteen countries divided *inter se*, and—still more surprising, perhaps, to some of those who have supposed that the clauses of the Covenant giving separate representation to the British Dominions are clauses devised by the British Government—we find delegates from South Africa, from Canada and from India voting against delegates from Great Britain.³⁸ Nor is it only in the democratic countries that we find such divisions of opinion and of vote, for the Japanese delegation was by no means a unit. Indeed, in a magazine article³⁹ written by the Japanese Delegate representing the employers or, as he calls them, the “capitalists,” that gentleman says that while he en-

³⁸ Proceedings of the International Labor Conference, Washington, October 29–November 29, 1919, Government Printing Office, 1920, p. 194.

³⁹ “Japan Magazine,” Tokyo, February, 1920, pp. 390–392.

deavored before the Conference to obtain harmony among the Japanese Delegation, he did not succeed in doing so, and speaking of his fellow delegates, he says:

“Not only did they indulge in abusive language regarding the capitalists of Japan, but circulated literature backing up such propaganda.”

And from what is also said in the article mentioned, it is not to be wondered at that the views of the delegate of the “capitalists” of Japan were not altogether satisfactory to his colleagues, for he mentions that in his opinion the future of the workingman depends rather on the adoption of a proper system of pensions and sick relief and education of children than on short hours of labor.

I do not suppose that it will be contended that Japan has a really democratic government, but even an autocratic government is to be far differently represented, and the views of its people far differently brought out at a Labor Conference held under the Labor Clauses of the Treaty of Versailles, than at any other.

The Labor Conferences, then, are annual meetings of representatives of governments, of employers and of employed, of the whole civilized

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world, to debate before the world and to propose to the various governments any labor legislation in the form of draft treaties or recommendations that may be deemed advisable by two-thirds of the delegates voting. Now, while these Conferences have no power to impose legislation on any State, for any draft conventions which they submit are binding only on the States which choose to ratify them, still the constitution of these annual meetings—which may really, and I think properly, be called Labor Parliaments—is such that their proceedings cannot be cut and dried affairs, and the future possibilities of this General Labor Conference, which is required to meet as often, I think, as any legislature in the world is required to meet, are very obviously enormous.

My own opinion is that these Labor Conferences will continue and will continue indefinitely, with increasing influence, regardless of the fate of the League of Nations in international political affairs. The worker has procured a tribunal, a semi-legislative, semi-debating tribunal, if you please, for the yearly discussion of international labor affairs, and never, in my judgment, will the labor parties and groups of the various countries throughout the world permit that enormous advantage to be taken

away from them. For it is an advantage which at the present time extends to no other subject or subjects of international concern whatsoever, and there is no other subject of international concern which, in time of peace, so continuously affects the welfare and the interest of so many citizens, individually and nationally.

It is sometimes as difficult to visualize the past as it is to project oneself into the future, but I ask you to turn your minds back—not to the period before the war, not to the period of the war itself, but simply to the time of the Armistice—and ask whether any one could then have thought that within about a year thereafter, at a conference representing substantially all the countries of the world, an international convention would have been voted with almost no dissent, providing with certain exceptions, for limiting the hours of work in industrial undertakings to 8 in the day and 48 in the week?

I have alluded to the fact that the first of the Labor Conferences was held at Washington last year. The Second Conference, called the "Seaman's Conference," relating wholly to questions of maritime labor, was held in Genoa in June and July and a complete account of its proceedings

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is not yet available. At the Third Conference, which is to be held in Geneva in 1921, agricultural questions and diseases in industry will be the most important subjects discussed.

The Clauses of the Treaty also set up as a permanent body an International Labor Office whose functions include the collection and distribution of information regarding the international adjustment of the conditions of industrial life and labor, and particularly the examination of all matters which may be made the subject of international conventions. The performance of these duties will naturally tend to link together the meetings of the General Conference, to make those meetings more like meetings of a continuous body, changed from time to time in personnel, than like international conferences of the ordinary type. It will be remembered that one of the defects of The Hague Conferences was that the idea of their continuity rested merely upon hope and had no basis of organization or of agreement.

The International Labor Office is under the control of a Governing Body of 24 members, 12 persons representing the governments, 6 the employers and 6 the workers, and of the 12 governments represented, 8 are to be those which are regarded

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as being of chief industrial importance. Provision is also made for a director or chief of the International Labor Office, who is to be appointed by the Governing Body.

I may say here that the Governing Body was first constituted at the Washington Conference in 1919. Much dissatisfaction was expressed as to the result of the selections made by the various groups, which gave to Great Britain, France, Italy and Germany 10 members in all out of 24. Finally the Conference passed a resolution formally disapproving the composition of the Governing Body, for the expressed reason that 20 of its members are from European countries. This resolution was supported by the Latin-American countries as well as by others outside of Europe, and in view of the growing industrial importance of many of these countries, there is little doubt that non-European influence in the Organization will increase. The progressive character of the legislation of some of the non-English speaking countries outside of Europe is indeed not generally known. Uruguay, for example, has a law giving pensions to all incapacitated persons and to all indigent persons over 60, and also recognizes the right of every destitute person to be fed by the State.

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Looking at the structure of the Labor Organization as a whole, it will be seen to present certain features which are wholly novel in international affairs and which are different even from those adopted in the organization of the League of Nations with which it is associated. The functions of the Governing Body are important, but are not of paramount importance. It is given control of the International Labor Office, but as that office is a permanent organization constantly functioning, the control of the Governing Body, which is to meet once in two months, will probably be exercised only along general lines. And while the success of the whole scheme will perhaps depend upon the efficiency and responsiveness to public sentiment of the Labor Office under its Director, it is the Conference with its annual meetings which is supreme, and the Conference, it may be noted, except in connection with the various kinds of recommendations made to the States represented, is to vote by a majority, the system of voting being that which I have previously mentioned, by delegates and not by States. Obviously, this is the most democratic international organization that has ever been constituted and, if it is successfully conducted for a few years, it will have greater results on interna-

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tional relations generally, and even upon some of the accepted theories of international law, than were dreamed of by its authors.

Some other features of the Labor Clauses of the Treaty of Versailles require mention. The Clauses contain sanctions or, in other words, provisions for the enforcement of any conventions which may be concluded pursuant thereto. I may repeat that there is no obligation upon the States joining in the Labor Organization to adopt or put into effect by treaty or otherwise recommendations made by the General Conference. So that these provisions for enforcement relate almost wholly to the enforcement of such conventions as may thus be voluntarily adopted by particular governments. In the first place, each one of the members is to make an annual report to the Labor Office on the measures which it has taken to give effect to the provisions of any conventions to which it has agreed, and these reports are to be laid before the next meeting of the Conference.

If any industrial association, either of employers or of workers, makes representation to the International Labor Office that a State which is a member of the organization has failed to carry out effectively any convention to which it is a party, the

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Governing Body is given discretion to communicate this representation to the government concerned and to invite that government to make a statement on the subject, and is further given power to make the representation and the statement public. So far as this particular sanction goes, it may at the most amount to publicity. But, for the first time in any international agreement, the diplomatic channel is opened to a representation made—not by a government *de facto* or *de jure*, but by an organization of individuals who may make the representation either against their own government or against any other. Those who have likened the attitude of the Conference of Paris to that of the Congress of Vienna have certainly not taken into account such a feature of the Treaty as this, which is only one of its many radical departures from former international practice and precedent. ✓

If, on the other hand, complaint of non-observance of the Treaty is filed by a State which is a member of the Organization, the Governing Body may refer the matter to a Commission of Enquiry named by the Secretary General of the League of Nations from a panel including representatives of employers and of workers. This Commission of Enquiry is required to indicate in its report meas-

ures of an economic character which may be taken against a defaulting government. This report however, is not final, for it may be made the subject of an appeal to the Permanent Court of International Justice, a court for whose organization provision is made in the Covenant. The steps which are being taken to form the Permanent Court of International Justice are well known and the Committee charged with drawing up its organization in detail has recently been sitting at The Hague, including among its members a distinguished statesman and jurist of the United States; a fact which has led to the remark that even if the United States is not officially represented in the League of Nations as yet, the Republican Party is. The decision of the Permanent International Court of Justice on any such appeal is final and the members of the organization are then authorized, but not required, to take against a defaulting State the measures of an economic character which are indicated by the decision of the Court as appropriate to the case.

Thus in the last analysis, the sanction of the Labor Clauses is public opinion, for no State could afford to reject a public decision of the International Court that it was not fulfilling an agreement

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made for the benefit primarily of its own people.

What effect will the absence of the United States and of Russia from membership in the Labor Organization have upon international labor relations? As to the United States, the absence of our participation in International Labor Conferences will possibly tend toward a less advanced international standard of conditions of labor than would otherwise be adopted, for relatively and generally speaking, the situation existing in the United States regarding hours and conditions of labor is more advanced than that in many other countries and the industrial importance and prosperity of this country are powerful arguments in favor of the adoption elsewhere of standards as high as our own. I do not think that there is the least danger that the United States will in fact lag behind any international standards which may be adopted. There is too much labor sentiment and too much public sentiment generally in this country in favor of labor legislation, to permit of such a condition. But non-participation of the United States in the World Labor Organization, if persisted in, will have, I believe, a profound moral effect in creating throughout the world a belief that the United States, even in matters outside of foreign relations in

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their ordinary sense, chooses to maintain an attitude of isolation and suspicion as to all other nations.

It is somewhat curious, indeed, to recollect that in our own country we have had in labor questions a problem very similar to that first discussed a century ago, and actively discussed in Europe for seventy years, before any steps were taken towards a remedy. Under our system of government, labor laws are for the States to pass and not for congressional consideration, and whenever proposals have been made in any State for the shortening of hours of labor, for factory legislation, or even for laws for the protection of women and children, the cry has been raised that the employers in that State would not be able to compete with some other industrial State not having, and not proposing to have, similar legislation on its statute books. That this condition has often prevented or delayed the adoption of legislation to which public sentiment now universally gives its approval, must be admitted by every student of the subject. Even now the argument that from an industrial and commercial point of view state lines do not exist is very effective in State Legislatures. Indeed, the impossibility of securing wholly uniform state legislation

finally led to efforts in Congress to secure a Federal law which would prevent to a certain extent the employment of child labor.⁴⁰ In 1916, Congress passed a statute prohibiting the transportation in interstate commerce of the products of factories in which children under the age of 14 had been employed or in which children under the age of 16 had worked for more than certain periods. The Supreme Court, with its Judges divided in opinion and by a course of reasoning which I have always believed—and always will believe—to be unsound, declared this act unconstitutional.⁴¹ Thereupon Congress passed another statute,⁴² seeking to accomplish the same result not under the interstate commerce clauses of the Constitution, but under the taxing power. The constitutionality of that statute is now before the Supreme Court for decision. I shall not attempt to forecast the decision of the Court on the question, but I may mention that a very similar statute passed in Australia under a constitution in this respect like our own, was after great consideration declared unconstitutional

⁴⁰ Act of Sept. 1, 1916, c. 432, 39 "Statutes-at-Large," p. 675.

⁴¹ *Hammer v. Dagenhart*, 247 U. S. 251. See dissenting opinion of Mr. Justice Holmes, p. 277.

⁴² Act of Feb. 24, 1919, 40 "Statutes-at-Large," p. 1138.

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by the High Court of Australia by a vote of three judges to two.⁴³

If Congress, either under the taxing power or under some other power granted by the Constitution, can legislate on the subject of labor conditions in the United States, our own interstate problem of uniformity and progress will have found a solution, a solution, however, delayed under our Constitution as long as the solution of the similar international problem which has confronted Europe for the century past.

Indeed, in view of the constitutional difficulties regarding Federal labor legislation in the United States, to which I have alluded, it has been suggested that the treaty power of the United States would not extend to such international labor legislation as is contemplated by the Labor Clauses of the Treaty of Versailles. Any present discussion of such a question would, I suppose, be outside my brief here and I shall only say that I agree with the conclusions of those who think⁴⁴ that such a

⁴³ *The King v. Barger*, 6 "Commonwealth Law Reports" (Australia), 41.

⁴⁴ T. I. Parkinson, "Constitutionality of Treaty Provisions Affecting Labor," in *American Labor Legislation Review*, March, 1919, pp. 21-32.

—J. P. Chamberlain, "The Power of the United States Under

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contention is not well founded and that the treaty making power of the United States is not so limited in that regard, and that I believe that these conclusions are supported by the very recent decision of the United States Supreme Court ⁴⁵ upholding the Treaty with Great Britain regarding the protection of migratory birds.⁴⁶

And now as to Russia: There is no doubt, of course, that any government of Russia, socialistic or non-socialistic, founded upon any economic or political theory which the Russian people choose to adopt, which recognizes the rights of other people to have a government and a system of their own choosing, and which recognizes, at least to a moderate degree, that some good faith must prevail if international relations between peoples are to exist at all, will have the opportunity to join—and will join—the League of Nations. But the present imperialistic and autocratic government of the Soviets does not and cannot comply with any of those con-

the Constitution to Enter Into Labor Treaties" *American Labor Legislation Review*, September, 1919 pp. 330-338.

—, J. P. Chamberlain, "Migratory Bird Treaty Decision and Its Relation to Labor Treaties," *American Labor Legislation Review*, June, 1920, pp. 331-335.

⁴⁵ *Missouri v. Holland*, decided April 19, 1920.

⁴⁶ Treaty Series, No. 628.

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ditions. At this time the question of what labor standards exist or are adopted in Russia, is of no economic importance outside that country, for no international trade with Russia exists and consequently no international competition exists between Russian products and those of the rest of the world. Nor is there any likelihood of the question becoming one of importance for a long period. The productivity of Russian industry has gone bankrupt. While the political system of autocracy adopted by the present dictators of Russia under the mask of popular control is, as was recognized by the American Federation of Labor at its recent meeting, abhorrent to every principle of freedom and of liberty and to every American ideal, that system is not so material to our present discussion as is the economic régime which accompanies it, an economic régime founded upon a fallacy as obvious as that two and two make five.

Now I am not one of those who believe that property rights are by any means the most sacred things in the world. I think that they should always yield to any question of human rights, and if the matter is doubtful I would give to human rights, rather than to property rights, the benefit of the doubt. To hear that a proposal is called socialistic or con-

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fiscatory has to my mind no bearing upon its merits one way or the other. Confiscation of property exists to some extent in every civilized country and the question of its wisdom in any particular case is a question not of principle but of degree and of practicability. But what has happened in Russia is the result of the failure to recognize that no economic system, however defective, however unjust, can be transformed over night without disaster and even ruin to all concerned. The present economic system of the world, whether good or bad, is based upon a very complex and delicate adjustment of the machinery of transportation and credit, and to tear out some of that machinery, even with the idea of improvement, is to set back the clock of human progress. The misery and ruin which have blighted Russia and put her out of the economic family of nations for a longer period than most of us imagine, should serve as a warning to those who think that theories as to the ownership of property and the control of wealth can be made realities by ignoring the existing system of production and distribution of the necessities of life.

We may now, perhaps, attempt to paint some picture of the International Labor Relations of the future. But as an aid to this, I think we should

look with some care at what was accomplished by the Conference at Washington in 1919.⁴⁷ At that Conference about forty nations were represented. Those who have professed concern about the Monroe Doctrine under the language of the Covenant should note that most of the territory to which the Doctrine is applicable is in the League of Nations without any reservations at all. The Washington Conference was participated in by Brazil, Chile, Argentina and other South and Central American States and even by Panama, Cuba and Haiti, where political relations with the United States are of the closest.

The first action of the Conference was to vote the admission of Germany and Austria as members of the Labor Organization, thus foreshadowing the admission of both States as members of the League of Nations at the first meeting of its Assembly.

Delegates from Finland and Luxemburg were admitted to the discussions of the Conference, though neither country is as yet a member of the Labor Organization or of the League of Nations.

The subjects considered by the Conference were chiefly those laid down as its agenda in the Treaty

⁴⁷ The official texts of the Conventions and Recommendations have been published by the League of Nations in pamphlet form, and by the Government Printing Office, Washington.

of Peace. As a result of the discussions the Conference adopted for submission to the various governments six draft conventions. Perhaps the most interesting of the conventions is that relating to the minimum age for the admission of children to industrial undertakings,—an expression which is defined in some detail in the convention itself as including mines, factories, transport, etc. The convention provides that children under the age of 14 years shall not be employed in any public or private industrial undertaking except one in which only members of the same family are employed. The principal discussion regarding the convention related to its application to Japan and to India. As to Japan, it is provided that the age limit may be 12 years for such children as have finished their primary instruction and that temporary provision may be made as to children between the ages of 12 and 14 already employed. The proposal of the Commission which reported the convention to the Conference was that so far as India was concerned the matter should be deferred for a year in order to give the Indian Government opportunity to consider the matter further with a view of framing a supplemental convention. In the Conference itself there was a strong opposition to such postponement

and a motion was made on behalf of the British Workers' Delegate of Great Britain, that children under 12 years of age should not be employed in India in power factories, in mines, quarries, etc., or in transport. According to the Factory Act of India, children between the ages of 9 and 14 years may be employed for 6 hours, and the amendment, although opposed by the Government Delegates of India, was very strongly supported by the Workers' Delegates of that country, who pointed out, as indeed others had, the intimate connection between a minimum age for the employment of children and the State's system for the education of children. For obviously a system of education should be provided which would permit that education to continue at least until the minimum age of employment. The result of this discussion was that by a vote of nearly 2 to 1 the Conference adopted the proposed amendment forbidding the employment of children in India under the age of 12 years in certain cases, and that amendment appears in the final form of the convention. Now, while it is true that the Government of India is under no legal, or perhaps even moral, obligation to put the convention into force, the adoption by the Conference of the clause in the convention re-

garding India is an expression of representative public opinion of the world that that course should be adopted, and it is very difficult to see how even a government which was called autocratic by one of the Delegates from India on the floor of the Conference can set its face against such a reform.

Other interesting differences of opinion arose in connection with the convention establishing the 8-hour day and the 48-hour week. The first discussion arose as to whether these limits should be alternative or should, on the other hand, be cumulative; the Conference decided in favor of the latter, so that the limit of employment is not only 48 hours per week, but is also 8 hours per day in industrial undertakings. But the 48-hour week may be observed with a half-holiday, involving longer hours than 8 on certain days, and the prescribed periods are also subject to various exceptions, which permit either the one or the other limit to be exceeded; and in cases of emergency, and in certain special kinds of work, it is provided that both limits may be exceeded. But, in general, it is fair to say that both the 8-hour day and the 48-hour week are governing principles of the convention. More difficulty, however, arose as to the application of this convention to particular

countries than as to the application of any other. There was little difference of opinion regarding a clause excepting China, Persia and Siam from the provisions of the convention, in view of the small number of factories in any of those countries. And some other exceptions were made without serious dissent; the date fixed for the convention to go into force is July 1, 1921, and two countries—Greece and Rumania—were given a further period of two to three years in which to make all of the provisions applicable; in regard to India, the convention adopts an exception establishing generally the principle of the 60-hour week as against the present factory limit of 12 hours per day. The really serious discussions as to the application of the convention took place in regard to Japan. Probably in no country of industrial importance would the adoption of an 8-hour day make so radical a change in conditions as in Japan. The Factory Act of Japan limits the working day to 13 hours, and that is the period actually worked in the silk industry, which is the largest industry in the country. In addition to that, instead of our system of one day of rest per week, only two days per month are allowed, and there may be 120 hours of overtime during the year. In the cotton

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industry of Japan, which is a very large industry, the working time is 11 hours per day, and in that and in other industries, while the day is nominally 10 hours, overtime in fact brings it up to about 12 hours. So that the hours of labor in Japan under its present system are very long, much longer than those of any other country of equal manufacturing importance. In the Conference great emphasis was laid upon the industrial development in Japan, both before and during the period of the Great War, and the effect of that development in competition with the industries of other countries. In accordance with this sentiment, a motion was made, which was very strongly supported, that the convention should be made applicable to Japan from January 1, 1922, or, in other words, six months later than the date fixed for its general applicability. The most interesting development of the debate was the support of the 8-hour day proposal by the Workers' Delegate from Japan, who said, among other things, that under his flag there are several millions of toilers unjustly treated under an autocracy which is an enemy of social justice; that the helpless industrial workers of Japan are mostly female, the number being estimated at 700,000 toilers, and that their life in the factories is

almost that of slavery. He said that the one way to clear away such a terrible condition as this is to turn on the light, taking away special treatment provisions from the autocrats' hands, and he filed a written statement attacking the Japanese law regarding labor organizations, attacking the sincerity of the reply of his own Government to certain questions which he had presented through the Japanese Government Delegates, and adding that the treatment of Japanese labor by the Japanese Government is not sympathetic, sincere and consistent.

The argument on the other side was based upon the short period during which Japanese industries have been established and it was contended that as radical a change as that to an 8-hour day should not be made at one time. The vote on the motion was very close, 42 in favor of the application of the 8-hour day to Japan, and 45 against, or, in other words, in favor of the less radical provisions found in the convention.

Under the modifications applicable to Japan which were thus adopted, the weekly work basis is 57 hours except in the raw silk industry, where it is 60 hours. Even these changes, however, are very great in comparison with the present situation in Japan. The average number of working hours

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in the silk industry, for example, is certainly over 80 per week, so that the reduction promised by the convention is in excess of 25 per cent. And while there is a good deal of difference between 60 hours a week, or even 57, on the one hand, and 48 on the other, it is obvious from the sentiment of the Conference that the subject is not finally disposed of for Japan, either nationally or internationally.

In one sense, moreover, the actual discussion at the Conference is more important and more significant than the provisions adopted in the convention. No such discussion was ever heard before in any official international gathering, and if no other fact than the occurrence of that discussion had resulted, or should ever result from the Treaty of Versailles, it would be a fair statement to say that that Treaty had introduced a new era into international affairs and relations.

By a unanimous vote, the Conference recommended to all the members of the International Labor Organization not parties to the Berne Convention of 1906, prohibiting the use of white phosphorus in the manufacture of matches, that they adhere thereto and in the course of the discussion the representatives of some nine governments declared their willingness and intention to adhere to

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this agreement, one of these being Sweden, where the industry is of importance.

The Conference adopted a convention prohibiting the employment of women during a period of six weeks after childbirth and permitting absence for six weeks before childbirth, and providing for the payment of benefits for maintenance during any such time of absence. The provisions of this convention extend not only to industrial but also to commercial undertakings, this being the only convention directly applicable to conditions of labor in the latter class of enterprise. Furthermore, the Conference requested the Government of India to make a study of the whole question of the employment of women before and after confinement and report thereon at the next Conference, and directed that the question of absence from work for a longer period than six weeks after confinement be a subject for discussion at that time.

The very difficult and technical subject of unhealthful occupations was considered to some extent and recommendations were made for the consideration of the various Governments concerning the prevention of anthrax, and the protection of women and persons under 18 against lead-poisoning, both by their exclusion from certain employ-

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ments and by the establishment of safeguards in others. It was also recommended that each Government establish a service for safeguarding the health of workers, in addition to its system of factory inspection.

It was recognized, I think, that the study of unhealthful employments must be further developed and that the question must be further considered in various industries in the light of further technical knowledge.

Another subject considered was that of unemployment. The discussion naturally took a very wide range, including such related matters as the distribution of raw materials, transport and freight rates. The convention which was adopted provides for the collection of statistical and other information regarding unemployment, the establishment of free public employment agencies, with advisory committees of employers and workers, and the co-ordination of these various national systems through the International Labor Office. It contains also a provision looking toward the admission of alien resident workers to established systems of unemployed insurance. There were also various recommendations on the subject submitted to the respective Governments. One is for the prohibition or

abolition of private employment agencies; another would permit the recruiting of workers in one country for employment in another only by agreement between the Governments concerned and after consultation with the employers and workers in the industries involved; the establishment of systems of unemployment insurance, the coördination of all public works and the reciprocal admission of foreign workers and their families to the benefit of domestic laws are also recommended.

It may fairly be said, however, that the Conference was not very sure of the efficacy of any of the provisions adopted in this matter of unemployment, for it directed further and elaborate studies to be made regarding some of its various phases through the International Labor Office.

The two remaining conventions adopted by the Conference related to the prohibition of night work by women and young persons in industrial undertakings. That relating to night work of women is a revision and extension of the Berne Convention of 1906 on the same subject. As in the earlier convention "night" is defined as a period of at least eleven consecutive hours, which must include the period from 10 P. M. to 5 A. M. The convention gives to India and Siam a very broad privilege

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as to the suspension of its application in those countries.

The convention relating to night work for young persons establishes the age of 18 as the basis, which may be contrasted with the age limit of 16 which was recommended at Berne in 1913. Exceptions are made as to certain named industries where the age is 16, which is the age made applicable to Japan in all industries. And special exceptions are allowed in the case of India where the age limit is 14 for boys and 18 for girls.

One other matter that came before the Conference should be mentioned. The Labor Clauses of the Treaty provide that the Workers' Delegates shall be nominated by the Government in agreement with the organizations most representative of work people, if such organizations exist, and further that the Conference may by a two-thirds vote refuse to admit any Delegate not so chosen.

Under this provision several objections to Delegates' credentials were filed, and in one case the objections were pressed to a vote. The representation of the Delegates of different groups is to be real, not nominal, and another momentous change in international practice has come to stay.

It may be thought that I have gone into the work

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of the Washington Conference in too great detail. But the statement of what was done at that Conference is only incidental to my purpose, which is to attempt to see the present tendencies of International Labor Relations generally. Here we find the machinery of the International Labor Organization putting through in a month a volume of proposals which, considering the extent of territory and population to which they may be applicable, must be regarded as enormous. We find the activities of the great labor groups of the world turned into official channels, with the right to criticize openly and as accredited spokesmen, the policies of any government represented, because of their national or international effects.

And here I would like to put to those critics who consider the Labor Clauses as a dangerous innovation in international affairs, this question: What was the alternative at Paris? There was a demand in Europe for international recognition, for recognition by the Peace Conference, of the right of international protection for labor. That demand was not the demand of a few agitators, but was the demand of millions of voters, many, and perhaps most, of whom had actually fought in the war. I do not say that the refusal of that demand would

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certainly have upset some of the governments of Europe—although I believe that it would, but even if it had not, it would inevitably have turned that public sentiment into revolutionary channels and would have made it a force in opposition to the public order of the world, instead of making it, as the Treaty has done, a force—and a very powerful force—in support of civilization. I have not time to refer to the political groupings of the various countries of Europe along these lines, but any one who cares to look into the matter in detail will find that some of those groups who were inclined far toward the extreme left, have by the Labor Clauses of the Treaty been led to attempt to realize their ideas of progress by the use of the existing order and not by its overthrow.

And in reply to those intellectuals and agitators who would have created by the Labor Clauses a sort of labor Superstate, I can say that the international labor movement, instead of being made into a movement of class, of caste, as they would have it, a movement involving necessarily the idea of different and hostile groups, has become one along the broadest humanitarian lines; a movement looking rather to the progress of humanity than to the advantage of group; a movement looking toward

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the education of children, the promotion of morality and of safety for women and young persons; a movement, indeed, which has already accomplished the first international recognition of the rights of motherhood which the world has ever seen.

I cannot but regard this right of official publicity and influence as a very wise step forward, a great benefit to stable civilization in democratic countries and a great help toward democracy in other countries. The repercussion of these criticisms in the domestic politics of such countries as Japan and India can almost be felt by any one who reads the reports of the Washington Conference. And no longer can organized labor in those countries where its influence has been increasing so greatly for the last fifty years, feel that it has no direct part in every policy of the government, when its own leaders are among the official spokesmen of the country in its negotiations with the rest of the world. Without expecting too much from this experiment, we may believe that a tendency toward union and progress has been introduced in place of a tendency toward distrust and obstruction.

And we have every reason to look forward hopefully to the future. Doubtless mistakes will be

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made as in all human affairs. I think myself that too much was attempted at Washington last year and that future Conferences will be well advised if they limit their discussions to two or three subjects and consider them in greater detail. In view of the fact that a meeting must be held every year, such a course will not make for delay in any really important matter.

But whether I am right as to this or not, the International Labor Relations of the world have been placed on a wholly new footing. The war and the peace have brought about a more revolutionary change in those relations than all the previous history of the world taken together. The Governments, employers and employed of the world are bound together in a new organization, uniting their efforts in a common purpose, under conditions of publicity and influence whose importance it is difficult to exaggerate. To accomplish this, precedent has been ignored and former practice cast aside.

Before 1914, the countries of the world had never found it possible to agree even about the laws of war, but we now find a new form of World Congress agreeing about industrial questions which had scarcely been recognized as within the realm of diplomacy, despite their admitted daily importance

to most of the people in every civilized country. It is not extravagant to say that general acceptance by the members of the League of Nations of the conventions drafted by the Labor Organization will demonstrate the creation of a World Parliament, a Legislature which leaves unimpaired the sovereignty of the States which participate in its formation, and which will prove a greater power for world peace and national justice than any previous human effort.

I have finished. If I have said anything which will tend to help on the cause of justice and of progress in the world, anything which will leave in your minds a belief that mankind may be helped by the coöperation and by the joint efforts of its peoples to a truer understanding of the ideals and the ethics which should prevail in all human relations, international, national and personal, I am more than content—and let me say that progress toward such a goal is in your hands rather than in the hands of others, for you and your fellows are, in a most peculiar and just sense, the moral and spiritual leaders of our citizens.

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